

REMARKS

Claims 1-14 are currently pending in this application.

Nonstatutory Double Patenting Rejection

Claim 1 was rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of Navarro (U.S. Patent No. 6,648,313). A Terminal Disclaimer is filed herewith.

Claims Objections

Claim 7 was objected to as being of improper dependent form because of informalities. Claim 7 has been cancelled herein.

Claim Rejections Under 35 U.S.C. §112

Claims 10, 13 and 14 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Claims 10, 13 and 14 have been amended herein.

Claim Rejections Under 35 U.S.C. §102

Claims 1, 3, 6-10 and 14 were rejected under 35 U.S.C. §102(b) as being anticipated by LeRoy (U.S. Patent No. 3,446,212).

LeRoy discloses a hemostatic clip and an applicator therefor. The applicator 14 is pivoted at its central portion 26, and includes a separate spring 32 between the handles 28 and 30 to maintain and return the applicator 14 to rest position (column 3, lines 32-57; figures 1-5). Also, the tips 22 and 24 are at compound right angles in a plane perpendicular to the plane of the remainder of the applicator 14, for convenient interfitting in the hemostatic clip 10, and the

distance between the tips 22 and 24 is specifically fixed to enable insertion into the hemostatic clip 10. In contrast thereto, the invention herein as claimed does not include a pivot for enabling operation thereof, and does not include a separate spring to maintain at and return to a rest position. Also, the claimed invention does not include tips at right angles to the plane thereof, and the distance between the tips is not fixed for insertion into a specific device, in further contrast to LeRoy.

Claim Rejections Under 35 U.S.C. §103

Claims 2, 5 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over LeRoy in view of Wood (U.S. Patent No. 865,623). Since these claims depend directly or indirectly from an independent claim, it is submitted that they are patentable in view of the patentability of the independent claim as set forth above.

Dependent Claims

In view of the patentability of the underlying independent claims over LeRoy as set forth above, it is submitted that the claims depending therefrom are likewise patentable.

Allowable Subject Matter

It is noted that claims 4 and 11 were objected to as being dependent upon a rejected base claim, but were stated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. It is submitted, for the reasons set forth above, that the independent and dependent claims herein including claims 4 and 11 include allowable subject matter.

CONCLUSION

It is submitted in view of the above that there is no teaching or suggestion of applicant's invention as claimed in the claims submitted herewith, within the scope of the disclosure of the cited references, without extensive modification and the exercise of inventive talent.

In light of the above amendments and remarks, applicant submits that the application is in condition for allowance, and requests that it be passed to issue. If there are any issues which can be discussed in a telephone interview, the Examiner is requested to contact applicant's attorney at (310) 242-2732.

Respectfully submitted,

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